

Before the  
**Federal Communications Commission**  
Washington, D.C.

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MAR 27 1997

Federal Communications Commission  
Office of Secretary

In the Matter of

Implementation of the  
Telecommunications Act of 1996:

Telecommunications Carriers' Use of  
Customer Proprietary Network  
Information and Other Customer  
Information

CC Docket No. 96-115

**REPLY COMMENTS  
OF  
CONSOLIDATED COMMUNICATIONS INC.**

Consolidated Communications Inc. ("CCI") respectfully submits these reply comments in response to the Common Carrier Bureau's Public Notice ("Notice") seeking further comment to supplement the record in the above-referenced proceeding.<sup>1</sup> CCI is a privately-held, parent company owning subsidiaries which together provide full-service telecommunications in local exchange, long distance, cellular, paging, and other services in central Illinois and surrounding regions. CCI's reply comments are limited to a response to questions 3 and 5 in the Notice.

**QUESTIONS**

(3) If a telecommunications carrier may disclose a customer's CPNI to a third party only pursuant to the customer's affirmative written request under Section 222(c)(2), must carriers, including interexchange carriers and independent local exchange carriers (LECs), treat their affiliates and other intracompany operating units (such as those that originate interexchange telecommunications services in areas where the carriers provide telephone exchange service and exchange access) as third parties

<sup>1</sup> DA 97-385 (released February 20, 1997).

for which customers' affirmative written requests must be secured before CPNI can be disclosed?

(5) If sections 222(c)(1) and 222(c)(2) require customer approval, but not an affirmative written request, before a carrier may use, disclose, or permit access to CPNI, must each carrier, including interexchange carriers and independent LECs, disclose CPNI to unaffiliated entities under the same standard for customer approval as is permitted in connection with their affiliates and other intra-company operating units?

## **RESPONSES**

### **Section 222**

CCI agrees with the vast majority of commentors that Sections 222(c)(1) and 222(c)(2) do not require carriers to treat their affiliates and intra-company operating units as third parties for which customers' affirmative written requests must be secured before CPNI may be shared. Under section 222(c)(1), a telecommunications carrier may use, disclose, or permit access to CPNI with its corporate family with "the approval of the customer". That approval may be implied where a customer has an existing relationship with a carrier and be secured orally or via an opt-out mechanism in other circumstances.

CCI also agrees that customers generally expect that a business with whom the customer has an established relationship will use or share information among its affiliates in a way that offers benefits to the customer. For example, CCI agrees with US West that carriers communicate with customers with whom they have an existing business relationship to describe potential beneficial uses to which the customer's CPNI can be put by the carrier and its affiliated companies. Like US West, CCI believes that such use of CPNI will, over time, form the foundation for the "one-stop shopping" envisioned by the 1996 Act, and will both advance the public interest and increase competition.

CCI supports Cincinnati Bell Telephone's observation that public opinion research makes clear that the American public feels comfortable receiving marketing offers from corporate affiliates. CCI agrees with Bell South that customers generally neither know nor care why a telecommunications carrier may have established affiliates or intra-company operating units. CCI urges the Commission to recognize that the majority of consumers find the sharing of information with affiliates acceptable. Such a finding is consistent with prior Commission decisions concerning the use of CPNI by affiliates.<sup>2</sup>

CCI also agrees with the National Telephone Cooperative Association and the Organization for Promotion and Advancement of Small Telephone Companies ("NTCA/OPASTCO") that rigid rules requiring small or independent LEC to seek written authorization from customers before sharing CPNI with their affiliates would be extremely difficult to monitor and comply with in a small company environment. Such rules would also impose undue burdens on small companies by requiring them to set up elaborate systems to restrict information that would ordinarily be accessible to employees performing multiple tasks among affiliated operations.

#### Section 272

Section 272 provides no basis for requiring ILECs or IXC's to secure written customer approval before sharing CPNI with their affiliates or requiring ILEC's or IXC's to treat third parties the same as their affiliates. Section 272(c)(1) only applies to transactions between BOCs and their section 272 affiliates. It does not apply to transactions between BOCs and their other affiliates, or between IXC's and their local

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<sup>2</sup> See Application of Craig O. McCaw, Transferor, and American Telephone and Telegraph Company, Transferee, for Consent to the Transfer of Control of McCaw Cellular Communications, Inc. and its Subsidiaries, 10 FCC Rcd 11794.

service affiliates, or between other non-BOC carriers and their affiliates. Section 273 cannot be read to require ILEC's or IXC's to treat third parties on the same basis as they treat their own affiliates with respect to access to CPNI.

The Section 272 non-discrimination obligation is a hurdle that only the BOCs must face to enter the in-region inter-LATA market under section 271. Non-BOC carriers not otherwise subject to section 271 and section 272 should not have similar competitive hurdles falsely erected to establish parity among local exchange carriers of disparate sizes.

#### Customer Approval

CCI strongly opposes the burdensome FCC pre-subscribed form approach to written customer approval suggested by the Competition Policy Institute. First, CCI takes issue with CPI's narrow reading of the provisions of section 222 and declaration that it limits "presumed consumer consent." Section 222 requires the "approval of the customer" before a carrier may share CPNI with an affiliate other than one involved in the service from which the CPNI was derived. Section 222 most assuredly does not limit the manner in which that customer approval can be received, be it implied, oral or written.

Second, CCI objects to CPI's plans for the Commission to require that CPNI only be disclosed upon written request by the consumer. CPI's approach ignores the traditional expectations of consumers as noted above, and the reasons for which companies may establish separate but affiliated companies to handle certain communications services. Moreover, where certain affiliates have integrated services and use integrated access to CPNI, such a rigid separation approach would require duplicative facilities and a great deal of expense.

Moreover, CPI's insistence that its written form approach be applied equally to all incumbent local exchange companies for competitive purposes is not legally sound. The focus of section 222 of the Communications Act is protecting the privacy of customers' CPNI, not enhancing competition. Nothing in section 222 indicates that Congress intended for section 222 to extend any non-discrimination requirement to independent local exchange companies. As noted above, Congress saw fit to place non-discrimination requirements on BOCs only.

Respectfully submitted,

CONSOLIDATED COMMUNICATIONS INC.

By Ellyn E. Crutcher / eac  
Ellyn E. Crutcher  
121 South 17th Street  
Mattoon, IL 61938  
(217) 235-4467

Of Counsel:

J. Breck Blalock  
J. Breck Blalock  
Nixon Hargrave Devans & Doyle LLP  
One Thomas Circle, N.W.  
Suite 700  
Washington, D.C. 20005  
202-457-5321

March 27, 1997

CERTIFICATE OF SERVICE

I, Gail M. Mullen, do hereby certify that a copy of the foregoing Reply Comments of Consolidated Communications Inc., was sent by first class United States mail, postage prepaid, or by hand delivery or facsimile where indicated by an asterisk (\*), this 27th day of March, 1997 to the following:

William F. Caton\*  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, DC 20554

Janice Myles\*  
Federal Communications Commission  
Common Carrier Bureau  
1919 M Street, N.W.  
Room 544  
Washington, DC 20554

Lawrence G. Malone  
Acting General Counsel  
State of New York Department  
of Public Service  
Three Empire State Plaza  
Albany, NY 12223-1350

Howard J. Barr  
Pepper & Corazzini, L.L.P.  
1776 K Street, N.W.  
Suite 200  
Washington, DC 20006

Mary McDermott  
Linda Kent  
Keith Townsend  
Hance Haney  
United States Telephone Association  
1401 H Street, N.W., Suite 600  
Washington, DC 20005

Marlin D. Ard  
Sarah R. Thomas  
Patricia L.C. Mahoney  
Pacific Telesis Group  
140 New Montgomery Street, R. 1522A  
San Francisco, CA 94105

Margaret E. Garber  
Pacific Telesis Group  
1275 Pennsylvania Avenue, N.W.  
Washington, DC 20004

Glenn S. Rabin  
ALLTEL Corporate Services, Inc.  
655 15th Street, N.W.  
Suite 220  
Washington, DC 20005

M. Robert Sutherland  
A. Kirven Gilbert III  
Bellsouth Corporation  
Suite 1700  
1155 Peachtree Street, N.E.  
Atlanta, GA 30309-3610

Charles C. Hunter  
Catherine M. Hannan  
Hunter & Mow, P.C.  
1620 I Street, N.W.  
Suite 701  
Washington, DC 20006

Michael S. Pabian  
Larry A. Peck  
Counsel for Ameritech  
Room 4H82  
2000 West Ameritech Center Drive  
Hoffman Estates, IL 60196-1025

Dan L. Poole  
Kathryn Marie Krause  
Suite 700  
1020 19th Street, N.W.  
Washington, DC 20036

David Cosson, Esq.  
L. Marie Guillory, Esq.  
NTCA  
2626 Pennsylvania Avenue, N.W.  
Washington, DC 20037

Lisa M. Zaina, Esq.  
Stuart Polikoff  
OPASTCO  
21 Dupont Circle, N.W.  
Suite 700  
Washington, DC 20036

Mark C. Rosenblum  
Leonard J. Cali  
Judy Sello  
Room 3245G1  
29t North Maple Avenue  
Basking Ridge, NJ 07920  
Attorneys for AT&T Corp.

James D. Ellis  
Robert M. Lynch  
David F. Brown  
Timothy P. Leahy  
Patrick Pascarella  
175 E. Houston, Room 1254  
San Antonio, TX 78205

Durward D. Dupre  
Mary Marks  
Robert J. Gryzmala  
One Bell Center, Room 3520  
St. Louis, MO 63101

Catherine R. Sloan  
David N. Porter  
Richard L. Fruchterman  
Richard S. Whitt  
1120 Connecticut Avenue, N.W.  
Suite 400  
Washington, DC 20036  
Attorneys for WORLDCOM, INC.

Kathleen Abernathy  
David A. Gross  
AirTouch Communications, Inc.  
1818 N Street, Suite 800  
Washington, DC 20036

Pam Riley  
Charles D. Cosson  
AirTouch Communications  
One California Street, 28th Fl.  
San Francisco, CA 94111

Edward D. Young, III  
Michael E. Glover  
Lawrence W. Katz  
Micki M. Chen  
Brian X. Gaul  
1320 North Court House Road  
Eighth Floor  
Arlington, VA 22201  
Attorneys for the Bell Atlantic  
Telephone Companies

Campbell L. Ayling  
1095 Avenue of the Americas  
Room 3725  
New York, NY 10036  
Attorney for the NYNEX Telephone  
Companies

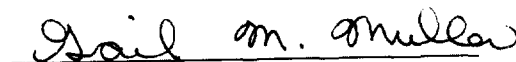
Leon M. Kestenbaum  
Jay C. Keithley  
Norina T. Moy  
Sprint Corporation  
1850 M Street, N.W., Suite 1110  
Washington, DC 20036

Werner K. Hartenberger  
J.G. Harrington  
Richard S. Denning  
Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N.W.  
Suite 800  
Washington, DC 20036

Wendy S. Bluemling  
Director - Regulatory Affairs  
The Southern New England Telephone  
Company  
227 Church Street  
New Haven, CT 06510

Todd F. Silbergeld  
Director - Federal Regulatory  
SBC Communications Inc.  
1401 I Street, N.W.  
Suite 1100  
Washington, DC 20005

ITS\*  
2100 M Street, N.W.  
Room 140  
Washington, DC 20037

  
Gail M. Mullen